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House Bill _____
By _____

Senate Bill No.SB0080
By Cooper

AN ACT amend Tennessee Code Annotated, Title 3, Chapter 6,
related to lobbying.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, This act shall be referred to as the "Lobbying Reform Act of 1995."

SECTION 2. Tennessee Code Annotated, Section 3-6-102(8), is amended by deleting from the first sentence of the subsection the phrase "any of which are valued at fifty dollars (\$50.00) or more," and by deleting the last sentence of the subsection.

SECTION 3. Tennessee Code Annotated, Title 3, Chapter 6, Part 1, is amended by adding the following as a new section to be appropriately designated:

SECTION ____.

(a) No lobbyist or employer of a lobbyist may provide a gift, directly or indirectly, to a candidate for public office, official in the legislative branch, official in the executive branch, or immediate family of such candidate or official.

(b) The following are not subject to the prohibition in subsection (a):

(1) Benefits resulting from business, employment, or other outside activities of a candidate, official or their immediate family, if such benefits are customarily provided to others in similar circumstances and are not enhanced due to the status of the candidate or official;

(2) Informational materials in the form of books, articles, periodicals, other written materials, audio tapes, videotapes, or other forms of communication;

(3) A gift given by an individual if the gift is given for a nonbusiness purpose and is motivated by a close personal friendship and not by the position of the candidate or official.

(A) A gift shall not be considered to be given for a nonbusiness purpose if the individual giving the gift seeks:

(1) to deduct the value of such gift as a business expense on the individual's federal income tax return; or

(2) direct or indirect reimbursement or any other compensation for the value of the gift from a client or employer.

(B) In determining if the giving of a gift is motivated by a close personal friendship, at least the following factors shall be considered:

(1) The history of the relationship between the individual giving the gift and the recipient of the gift, including whether or not gifts have previously been exchanged by such individuals;

(2) Whether the gift was purchased by the individual who gave the item; and

(3) Whether the individual who gave the gift also gave the same or similar gifts to other candidates, officials, or their immediate family at the same time;

(4) Gifts of sample merchandise, promotional items, and appreciation tokens, if they are routinely given to customers, suppliers or potential customers or suppliers in the ordinary course of business;

(5) Gifts representing unsolicited tokens or awards of appreciation, honorary degrees, or bona fide awards in recognition of public service in the form of a plaque, trophy, desk item, wall memento and similar items, provided that any such item shall not be in a form which can be readily converted to cash;

(6)(A) Gifts of food, refreshments, meals, foodstuffs or beverages, if the value of the gift is less than or equal to twenty five dollars (\$25.00). This includes, but is not limited to, food, refreshments, meals, foodstuffs or beverages given in connection with a social or fund raising event, conference or professional meeting, at a restaurant or club or as part of personal hospitality at the residence or place of business of the host. The monetary limitation contained in this subsection shall apply to the total value of the benefit received by the candidate, official, or immediate family member and not to the contribution made toward the benefit by any single person or entity. No lobbyist or an employer of a lobbyist may provide gifts to any person pursuant to this subsection (A) that have a cumulative value of more than five hundred dollars (\$500) during a reporting period.

(B) Food, refreshments, meals, foodstuffs or beverages that are provided in connection with an event to which invitations are extended to the entire membership of the general assembly shall not be deemed gifts for purposes of this part.

(7) Opportunities and benefits made available to all members of an appropriate class of the general public, including but not limited to:

(a) Discounts afforded to the general public or specified groups or occupations under normal business conditions except that such discounts may not be based on the status of the candidate or official;

(b) Prizes and awards given in public contests; and

(c) Benefits of participation in events held within the state and sponsored by, or for the benefit of, charitable organizations as defined in section 48-3-501(1); provided, that such events must be open to participation by persons other than candidates, officials or their immediate family and any benefits received must not be enhanced due to the status of the candidate or official, or provided that invitations are extended to the entire membership of the general assembly;

(8) Tickets to athletic events involving teams representing in-state schools, colleges and universities or to other events sponsored by such institutions, if offered by the involved institution; and

(9) Benefits of attendance at political events or fund-raisers sponsored by candidates for public office or other political organizations.

(c) A gift made contrary to this section shall not be a violation of the section if the candidate, official or their immediate family member does not use the gift and returns it to the donor within ten (10) days of receipt.

SECTION 4. Tennessee Code Annotated, Section 3-6-102(15)(A), is amended by deleting the phrase "who takes any administrative action".

SECTION 5. Tennessee Code Annotated, Section 3-6-106(b)(2), is amended by deleting the subsection in its entirety and substituting the following:

SECTION 6. Tennessee Code Annotated, Section 3-6-106(b)(4), is amended by adding after the word "expenditures" the words "related to section 3(b)(6) of this act" and by adding at the end of the subsection the words "or an official in the executive branch".

SECTION 7. Tennessee Code Annotated, Section 3-6-106(b)(3),(5) and (6), is amended by deleting those subsections in their entirety and redesignating the remaining subsections accordingly.

SECTION 8. Tennessee Code Annotated, Section 3-6-108, is amended by adding the following new subdivision to be appropriately designated:

() No lobbyist shall serve as a member of a state board or commission, if the lobbyist's employer may receive direct economic benefit from a decision of that board or commission.

SECTION 9. Tennessee Code Annotated, Section 3-6-110, is amended by adding the following new subdivision to be appropriately designated:

() For a first violation of section 3 of this act by any person, the registry shall be empowered to assess a civil penalty up to two hundred percent (200%) of the value of the gift made in violation of section 3. For any subsequent violation of section 3 by the same person, the registry shall be empowered to impose those penalties contained in subsections (b)(2) and (c).

SECTION 10. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 11. This act shall take effect upon becoming a law, the public welfare requiring it.